

AMENDED IN ASSEMBLY AUGUST 22, 2005

AMENDED IN ASSEMBLY MAY 24, 2005

AMENDED IN SENATE MARCH 29, 2005

SENATE BILL

No. 253

Introduced by Senator Torlakson

February 15, 2005

An act to amend ~~Section 798.3~~ Sections 798.3 and 1942.3 of the Civil Code, to amend Sections 568.2 and 568.3 of the Code of Civil Procedure, to amend Sections ~~65583~~, 65400, 65584.1, and 66016 of, and to repeal Sections 65586 and 65588.1 of, the Government Code, to amend Sections 18070.3, 18070.6, 18400.3, and 18867 of, and to repeal Section 33334.20 of, the Health and Safety Code, and to amend Section 3692.4 of the Revenue and Taxation Code, relating to housing.

LEGISLATIVE COUNSEL'S DIGEST

SB 253, as amended, Torlakson. ~~Housing: fees and enforcement.~~
Housing.

(1) *In an unlawful detainer action to recover possession of a dwelling from a tenant, existing law provides that when certain conditions exist, there is a rebuttable presumption that a landlord has breached habitability requirements.*

This bill would include in the conditions described above instances when the dwelling is deemed substandard, as specified, and when the dwelling violates specified limits relating to lead hazards.

(2) Existing law defines "mobilehome" for purposes of the Mobilehome Residency Law.

This bill would make a technical change in that definition.

~~(2)~~

(3) Existing law provides that a court may appoint a receiver to take possession of property under a variety of circumstances. Existing law requires that a receiver of real property containing rental housing notify the court of an order or notice to correct substandard conditions, as specified. Existing law also permits a tenant of real property that is subject to receivership, a tenant association, or specified government agencies to file a motion in a receivership action for instructions from a court in regard to substandard conditions, as specified.

This bill would include in the provisions regarding substandard conditions, described above, violations of limits relating to lead hazards.

(4) The Planning and Zoning Law requires each city, county, or city and county to prepare and adopt a general plan for its jurisdiction that contains certain mandatory elements, including a housing element. One part of the housing element is an assessment of housing needs and an inventory of resources and constraints relevant to meeting those needs. The assessment includes the locality's share of regional housing needs. That share is determined by the appropriate council of governments or by the Department of Housing and Community Development, subject to revision by the department.

The Planning and Zoning Law also authorizes a council of governments to charge a fee to local governments to cover the projected reasonable, actual costs of the council in distributing the regional housing needs pursuant to a city or county's housing element.

This bill would also authorize a council of governments to charge a fee for determining shares of the existing and projected regional housing need for cities, counties, and subregions at all income levels and for subsequent revisions of specified housing elements. The bill would also repeal obsolete provisions pertaining to housing elements.

~~(3)~~

(5) After the legislative body of a city, county, or city and county adopts all or part of a general plan, the Planning and Zoning Law requires the agency to provide an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development that includes specified information regarding the status of the plan and progress in its implementation. This report is due by October 1 of each year.

This bill would instead require the report by April 1 of each year, but would provide that for 2006, the report may be provided by October 1, 2006.

(6) Existing law establishes the Manufactured Home Recovery Fund which is continuously appropriated to make payments and distributions for actual and direct losses, as defined, arising out of specified transactions regarding the purchase or sale of a manufactured home if certain conditions are met.

This bill would make technical changes in those provisions.

~~(4)–~~

(7) The Mobilehome Park Act requires the Department of Housing and Community Development to convene a specified task force at least once a year to provide input to the department on the conduct and operation of the mobilehome park maintenance inspection program. The act also requires the department to reorganize violations under the act and regulations adopted pursuant to the act into 2 specified categories by January 1, 2000, and to correct those constituting unreasonable risk to life, health, or safety within 90 days following January 1, 2000. Any matter that would have constituted a violation prior to January 1, 2000, that was not categorized pursuant to these provisions was deemed to be of a minor or technical nature and not subject to citation or notation on the record of an inspection conducted on or after January 1, 2000.

This bill would revise these provisions to clarify that the authorization for the task force to meet at least once a year and to provide input to the department requires that the department annually reorganize violations and regulations under the act and would reduce the time period for violations constituting unreasonable risk to life, health, or safety to 60 days following January 1 of each year.

~~(5)–~~

(8) The Special Occupancy Parks Act authorizes the Department of Housing and Community Development or a city, county, or city and county that assumes responsibility for the enforcement of the act to enter and inspect special occupancy parks, defined as recreational vehicle parks, temporary recreational vehicle parks, incidental camping areas, and tent camps to secure enforcement of the act and implementing regulations. Existing law requires an enforcement agency to issue notice to correct a violation within 10 days of determining that a special park is in violation of the act or implementing regulations. Existing law requires the notice to allow 90

days from the postmarked date of the notice or date of personal delivery for elimination of the condition constituting the alleged violation if the violation is not an imminent threat to health and safety. Existing law authorizes an additional 90-day extension after the reinspection of the violation if the enforcement agency determines there is a valid reason why the violation was not corrected.

This bill would shorten the 90-day correction period to 30 days and the 90-day discretionary extension to 30 days.

~~(6)–~~

(9) Existing law authorizes the redevelopment agency of a city that meets specified population size requirements and whose legislative body finds that property damage in the city during the civil unrest that occurred between April 29, 1992, and May 3, 1992, exceeded \$50,000,000 to set aside into the Low and Moderate Income Housing Fund an amount that is less than it is otherwise required to set aside if the amount deposited, when added to other public funds expended or appropriated in that fiscal year for the purposes of constructing, rehabilitating, or preserving affordable housing for extremely low, very low, low- and moderate-income persons or families is equal to or greater than the amount it is otherwise required to set aside into its Low and Moderate Income Housing Fund. Existing law requires the redevelopment agency to adopt a plan to eliminate the deficit in subsequent years and complete payment by the 2003-04 fiscal year.

This bill would repeal these provisions and would provide that the repeal does not release an agency that reduced the set-aside pursuant to those provisions from eliminating the deficit in accordance with that section as it existed on December 31, 2005.

~~(7)–~~

(10) Existing property tax law authorizes a city, county, city and county, or nonprofit organization to request the tax collector to bring any residential real property that is not occupied by the owner as his or her principal place of residence to the next scheduled public auction if the taxes on the real property have been delinquent for at least 3 years and the real property will be used to provide housing or services directly related to low-income persons. Existing law requires a 30-year deed restriction to be placed on real property acquired by a nonprofit organization, as specified.

This bill would allow a deed, instead of the 30-year deed restriction, to provide for equity sharing between a nonprofit organization and a low-income owner-occupant upon resale by the low-income

owner-occupant of his or her single-family home that was initially purchased by the owner from the nonprofit organization.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 798.3 of the Civil Code is amended to
2 read:

3 798.3. (a) “Mobilehome” is a structure designed for human
4 habitation and for being moved on a street or highway under
5 permit pursuant to Section 35790 of the Vehicle Code.
6 Mobilehome includes a manufactured home, as defined in
7 Section 18007 of the Health and Safety Code, and a mobilehome,
8 as defined in Section 18008 of the Health and Safety Code, but,
9 except as provided in subdivision (b), does not include a
10 recreational vehicle, as defined in Section 799.29 of this code
11 and Section 18010 of the Health and Safety Code or a
12 commercial coach as defined in Section 18001.8 of the Health
13 and Safety Code.

14 (b) “Mobilehome,” for purposes of this chapter, other than
15 Section 798.73, also includes trailers and other recreational
16 vehicles of all types defined in Section 18010 of the Health and
17 Safety Code, other than motor homes, truck campers, and
18 camping trailers, which are used for human habitation if the
19 occupancy criteria of either paragraph (1) or (2), as follows, are
20 met:

21 (1) The trailer or other recreational vehicle occupies a
22 mobilehome site in the park, on November 15, 1992, under a
23 rental agreement with a term of one month or longer, and the
24 trailer or other recreational vehicle occupied a mobilehome site
25 in the park prior to January 1, 1991.

26 (2) The trailer or other recreational vehicle occupies a
27 mobilehome site in the park for nine or more continuous months
28 commencing on or after November 15, 1992.

29 “Mobilehome” does not include a trailer or other recreational
30 vehicle located in a recreational vehicle park subject to Chapter
31 2.6 (commencing with Section 799.20).

32 ~~SEC. 2. Section 65583 of the Government Code is amended~~
33 ~~to read:~~

1 ~~65583. The housing element shall consist of an identification~~
2 ~~and analysis of existing and projected housing needs and a~~
3 ~~statement of goals, policies, quantified objectives, financial~~
4 ~~resources, and scheduled programs for the preservation,~~
5 ~~improvement, and development of housing. The housing element~~
6 ~~shall identify adequate sites for housing, including rental~~
7 ~~housing, factory-built housing, and mobilehomes, and shall make~~
8 ~~adequate provision for the existing and projected needs of all~~
9 ~~economic segments of the community. The element shall contain~~
10 ~~all of the following:~~

11 ~~(a) An assessment of housing needs and an inventory of~~
12 ~~resources and constraints relevant to the meeting of these needs.~~
13 ~~The assessment and inventory shall include all of the following:~~

14 ~~(1) An analysis of population and employment trends and~~
15 ~~documentation of projections and a qualification of the locality's~~
16 ~~existing and projected housing needs for all income levels. These~~
17 ~~existing and projected needs shall include the locality's share of~~
18 ~~the regional housing need in accordance with Section 65584.~~

19 ~~(2) An analysis and documentation of household~~
20 ~~characteristics, including level of payment compared to ability to~~
21 ~~pay, housing characteristics, including overcrowding, and~~
22 ~~housing stock condition.~~

23 ~~(3) An inventory of land suitable for residential development,~~
24 ~~including vacant sites and sites having potential for~~
25 ~~redevelopment, and an analysis of the relationship of zoning and~~
26 ~~public facilities and services to these sites.~~

27 ~~(4) An analysis of potential and actual governmental~~
28 ~~constraints upon the maintenance, improvement, or development~~
29 ~~of housing for all income levels and for persons with disabilities~~
30 ~~as identified in the analysis pursuant to paragraph (6), including~~
31 ~~land use controls, building codes and their enforcement, site~~
32 ~~improvements, fees and other exactions required of developers,~~
33 ~~and local processing and permit procedures. The analysis shall~~
34 ~~also demonstrate local efforts to remove governmental~~
35 ~~constraints that hinder the locality from meeting its share of the~~
36 ~~regional housing need in accordance with Section 65584 and~~
37 ~~from meeting the need for housing for persons with disabilities~~
38 ~~identified pursuant to paragraph (6).~~

39 ~~(5) An analysis of potential and actual nongovernmental~~
40 ~~constraints upon the maintenance, improvement, or development~~

1 of housing for all income levels, including the availability of
2 financing, the price of land, and the cost of construction.

3 (6) ~~An analysis of any special housing needs, such as those of~~
4 ~~the elderly, persons with disabilities, large families, farmworkers,~~
5 ~~families with female heads of households, and families and~~
6 ~~persons in need of emergency shelter. The department shall adopt~~
7 ~~regulations to implement this paragraph, including parts of this~~
8 ~~paragraph determined by the department or any other state~~
9 ~~agency or a court to be a reimbursable state mandate. For any~~
10 ~~revision of a housing element required pursuant to Section 65588~~
11 ~~that occurs subsequent to the adoption of those regulations, any~~
12 ~~actions undertaken by the locality beyond those specified in the~~
13 ~~regulations are at that locality's option and are not required by~~
14 ~~this section.~~

15 (7) ~~At the option of local government, an analysis of~~
16 ~~opportunities for energy conservation with respect to residential~~
17 ~~development.~~

18 (8) ~~An analysis of existing assisted housing developments that~~
19 ~~are eligible to change from low-income housing uses during the~~
20 ~~next 10 years due to termination of subsidy contracts, mortgage~~
21 ~~prepayment, or expiration of restrictions on use. "Assisted~~
22 ~~housing developments," for the purpose of this section, shall~~
23 ~~mean multifamily rental housing that receives governmental~~
24 ~~assistance under federal programs listed in subdivision (a) of~~
25 ~~Section 65863.10, state and local multifamily revenue bond~~
26 ~~programs, local redevelopment programs, the federal Community~~
27 ~~Development Block Grant Program, or local in-lieu fees.~~
28 ~~"Assisted housing developments" shall also include multifamily~~
29 ~~rental units that were developed pursuant to a local inclusionary~~
30 ~~housing program or used to qualify for a density bonus pursuant~~
31 ~~to Section 65916.~~

32 (A) ~~The analysis shall include a listing of each development~~
33 ~~by project name and address, the type of governmental assistance~~
34 ~~received, the earliest possible date of change from low-income~~
35 ~~use and the total number of elderly and nonelderly units that~~
36 ~~could be lost from the locality's low-income housing stock in~~
37 ~~each year during the 10-year period. For purposes of state and~~
38 ~~federally funded projects, the analysis required by this~~
39 ~~subparagraph need only contain information available on a~~
40 ~~statewide basis.~~

~~(B) The analysis shall estimate the total cost of producing new rental housing that is comparable in size and rent levels, to replace the units that could change from low-income use, and an estimated cost of preserving the assisted housing developments. This cost analysis for replacement housing may be done aggregately for each five-year period and does not have to contain a project-by-project cost estimate.~~

~~(C) The analysis shall identify public and private nonprofit corporations known to the local government which have legal and managerial capacity to acquire and manage these housing developments.~~

~~(D) The analysis shall identify and consider the use of all federal, state, and local financing and subsidy programs which can be used to preserve, for lower income households, the assisted housing developments, identified in this paragraph, including, but not limited to, federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency of the community, and administrative fees received by a housing authority operating within the community. In considering the use of these financing and subsidy programs, the analysis shall identify the amounts of funds under each available program which have not been legally obligated for other purposes and which could be available for use in preserving assisted housing developments.~~

~~(b) (1) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing.~~

~~(2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by income category that can be constructed, rehabilitated, and conserved over a five-year time period.~~

~~(c) A program which sets forth a five-year schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and~~

1 ~~development controls, provision of regulatory concessions and~~
2 ~~incentives, and the utilization of appropriate federal and state~~
3 ~~financing and subsidy programs when available and the~~
4 ~~utilization of moneys in a low- and moderate-income housing~~
5 ~~fund of an agency if the locality has established a redevelopment~~
6 ~~project area pursuant to the Community Redevelopment Law~~
7 ~~(Division 24 (commencing with Section 33000) of the Health and~~
8 ~~Safety Code). In order to make adequate provision for the~~
9 ~~housing needs of all economic segments of the community, the~~
10 ~~program shall do all of the following:~~

11 ~~(1) (A) Identify adequate sites which will be made available~~
12 ~~through appropriate zoning and development standards and with~~
13 ~~services and facilities, including sewage collection and treatment,~~
14 ~~domestic water supply, and septic tanks and wells, needed to~~
15 ~~facilitate and encourage the development of a variety of types of~~
16 ~~housing for all income levels, including multifamily rental~~
17 ~~housing, factory-built housing, mobilehomes, housing for~~
18 ~~agricultural employees, emergency shelters, and transitional~~
19 ~~housing in order to meet the community's housing goals as~~
20 ~~identified in subdivision (b):~~

21 ~~(i) Where the inventory of sites, pursuant to paragraph (3) of~~
22 ~~subdivision (a), does not identify adequate sites to accommodate~~
23 ~~the need for groups of all household income levels pursuant to~~
24 ~~Section 65584, the program shall provide for sufficient sites with~~
25 ~~zoning that permits owner-occupied and rental multifamily~~
26 ~~residential use by right, including density and development~~
27 ~~standards that could accommodate and facilitate the feasibility of~~
28 ~~housing for very low and low-income households.~~

29 ~~(ii) Where the inventory of sites pursuant to paragraph (3) of~~
30 ~~subdivision (a) does not identify adequate sites to accommodate~~
31 ~~the need for farmworker housing, the program shall provide for~~
32 ~~sufficient sites to meet the need with zoning that permits~~
33 ~~farmworker housing use by right, including density and~~
34 ~~development standards that could accommodate and facilitate the~~
35 ~~feasibility of the development of farmworker housing for low-~~
36 ~~and very low income households.~~

37 ~~(B) For purposes of this paragraph, the phrase "use by right"~~
38 ~~shall mean the use does not require a conditional use permit,~~
39 ~~except when the proposed project is a mixed-use project~~
40 ~~involving both commercial or industrial uses and residential uses.~~

1 Use by right for all rental multifamily residential housing shall be
2 provided in accordance with subdivision (f) of Section 65589.5:

3 ~~(C) The requirements of this subdivision regarding~~
4 ~~identification of sites for farmworker housing shall apply~~
5 ~~commencing with the next revision of housing elements required~~
6 ~~by Section 65588 following the enactment of this subparagraph.~~

7 ~~(2) Assist in the development of adequate housing to meet the~~
8 ~~needs of low- and moderate-income households.~~

9 ~~(3) Address and, where appropriate and legally possible,~~
10 ~~remove governmental constraints to the maintenance,~~
11 ~~improvement, and development of housing, including housing for~~
12 ~~all income levels and housing for persons with disabilities. The~~
13 ~~program shall remove constraints to, or provide reasonable~~
14 ~~accommodations for housing designed for, intended for~~
15 ~~occupancy by, or with supportive services for, persons with~~
16 ~~disabilities.~~

17 ~~(4) Conserve and improve the condition of the existing~~
18 ~~affordable housing stock, which may include addressing ways to~~
19 ~~mitigate the loss of dwelling units demolished by public or~~
20 ~~private action.~~

21 ~~(5) Promote housing opportunities for all persons regardless of~~
22 ~~race, religion, sex, marital status, ancestry, national origin, color,~~
23 ~~familial status, or disability.~~

24 ~~(6) (A) Preserve for lower income households the assisted~~
25 ~~housing developments identified pursuant to paragraph (8) of~~
26 ~~subdivision (a). The program for preservation of the assisted~~
27 ~~housing developments shall utilize, to the extent necessary, all~~
28 ~~available federal, state, and local financing and subsidy programs~~
29 ~~identified in paragraph (8) of subdivision (a), except where a~~
30 ~~community has other urgent needs for which alternative funding~~
31 ~~sources are not available. The program may include strategies~~
32 ~~that involve local regulation and technical assistance.~~

33 ~~(B) The program shall include an identification of the agencies~~
34 ~~and officials responsible for the implementation of the various~~
35 ~~actions and the means by which consistency will be achieved~~
36 ~~with other general plan elements and community goals. The local~~
37 ~~government shall make a diligent effort to achieve public~~
38 ~~participation of all economic segments of the community in the~~
39 ~~development of the housing element, and the program shall~~
40 ~~describe this effort.~~

1 *SEC. 2. Section 1942.3 of the Civil Code is amended to read:*

2 1942.3. (a) In any unlawful detainer action by the landlord to
3 recover possession from a tenant, a rebuttable presumption
4 affecting the burden of producing evidence that the landlord has
5 breached the habitability requirements in Section 1941 is created
6 if all of the following conditions exist:

7 (1) The dwelling substantially lacks any of the affirmative
8 standard characteristics listed in Section 1941.1, *is deemed and*
9 *declared substandard pursuant to Section 17920.3 of the Health*
10 *and Safety Code, or contains lead hazards as defined in Section*
11 *17920.10 of the Health and Safety Code.*

12 (2) A public officer or employee who is responsible for the
13 enforcement of any housing law has notified the landlord, or an
14 agent of the landlord, in a written notice issued after inspection
15 of the premises which informs the landlord of his or her
16 ~~obligations~~ *obligation* to abate the nuisance or repair the
17 substandard *or unsafe* conditions *identified under the authority*
18 *described in paragraph (1).*

19 (3) The conditions have existed and have not been abated 60
20 days beyond the date of issuance of the notice specified in
21 paragraph (2) and the delay is without good cause.

22 (4) The conditions were not caused by an act or omission of
23 the tenant or lessee in violation of Section 1929 or 1941.2.

24 (b) The presumption specified in subdivision (a) does not arise
25 unless all of the conditions set forth therein are proven, but
26 failure to so establish the presumption shall not otherwise affect
27 the right of the tenant to raise and pursue any defense based on
28 the landlord's breach of the implied warranty of habitability.

29 (c) The presumption provided in this section shall apply only
30 to rental agreements or leases entered into or renewed on or after
31 January 1, 1986.

32 *SEC. 3. Section 568.2 of the Code of Civil Procedure is*
33 *amended to read:*

34 568.2. (a) A receiver of real property containing rental
35 housing shall notify the court of the existence of any order or
36 notice to correct any substandard *or unsafe* condition, as defined
37 in Section 17920.3 *or 17920.10* of the Health and Safety Code,
38 with which the receiver cannot comply within the time provided
39 by the order or notice.

1 (b) The notice shall be filed within 30 days after the receiver's
2 appointment or, if the substandard condition occurs subsequently,
3 within 15 days of its occurrence.

4 (c) The notice shall inform the court of all of the following:

5 (1) The substandard conditions that exist.

6 (2) The threat or danger that the substandard conditions pose
7 to any occupant of the property or the public.

8 (3) The approximate cost and time involved in abating the
9 conditions. If more time is needed to approximate the cost, then
10 the notice shall provide the date on which the approximate cost
11 will be filed with the court and that date shall be within 10 days
12 of the filing.

13 (4) Whether the receivership estate is likely to contain
14 sufficient funds to abate the conditions.

15 (d) If the receivership estate does not contain sufficient funds
16 to abate the conditions, the receiver shall request further
17 instructions or orders from the court.

18 (e) The court, upon receipt of a notice pursuant to subdivision
19 (d), shall consider appropriate orders or instructions to enable the
20 receiver to correct the substandard conditions or to terminate or
21 limit the period of receivership.

22 *SEC. 4. Section 568.3 of the Code of Civil Procedure is*
23 *amended to read:*

24 568.3. Any tenant of real property that is subject to
25 receivership, a tenant association or organization, or any federal,
26 state, or local enforcement agency, may file a motion in a
27 receivership action for the purpose of seeking further instructions
28 or orders from the court, if either of the following is true:

29 (a) Substandard conditions exist, as defined by Section
30 17920.3 or 17920.10 of the Health and Safety Code.

31 (b) A dispute or controversy exists concerning the powers or
32 duties of the receiver affecting a tenant or the public.

33 *SEC. 5. Section 65400 of the Government Code is amended to*
34 *read:*

35 65400. After the legislative body has adopted all or part of a
36 general plan, the planning agency shall do both of the following:

37 (a) Investigate and make recommendations to the legislative
38 body regarding reasonable and practical means for implementing
39 the general plan or element of the general plan, so that it will
40 serve as an effective guide for orderly growth and development,

1 preservation and conservation of open-space land and natural
2 resources, and the efficient expenditure of public funds relating
3 to the subjects addressed in the general plan.

4 (b) Provide by ~~October 1~~ *April 1* of each year an annual report
5 to the legislative body, the Office of Planning and Research, and
6 the Department of Housing and Community Development that
7 includes all of the following:

8 (1) The status of the plan and progress in its implementation.

9 (2) The progress in meeting its share of regional housing needs
10 determined pursuant to Section 65584 and local efforts to remove
11 governmental constraints to the maintenance, improvement, and
12 development of housing pursuant to paragraph (3) of subdivision
13 (c) of Section 65583.

14 The housing element portion of the annual report, as required
15 by this paragraph, shall be prepared through the use of forms and
16 definitions adopted by the Department of Housing and
17 Community Development pursuant to the rulemaking provisions
18 of the Administrative Procedure Act (Chapter 3.5 (commencing
19 with Section 11340) of Part 1 of Division 3 of Title 2).

20 (3) The degree to which its approved general plan complies
21 with the guidelines developed and adopted pursuant to Section
22 65040.2 and the date of the last revision to the general plan.

23 *(c) For the 2006 calendar year, the planning agency may*
24 *provide the report required pursuant to subdivision (b) by*
25 *October 1, 2006.*

26 ~~SEC. 3.~~

27 *SEC. 6.* Section 65584.1 of the Government Code is amended
28 to read:

29 65584.1. Councils of government may charge a fee to local
30 governments to cover the projected reasonable, actual costs of
31 the council in distributing regional housing needs pursuant to this
32 article. Any fee shall not exceed the estimated amount required to
33 implement its obligations pursuant to Sections 65584, 65584.01,
34 65584.02, 65584.03, 65584.04, 65584.05, and 65584.07. A city,
35 county, or city and county may charge a fee, not to exceed the
36 amount charged in the aggregate to the city, county, or city and
37 county by the council of governments, to reimburse it for the cost
38 of the fee charged by the council of government to cover the
39 council's actual costs in distributing regional housing needs. The
40 legislative body of the city, county, or city and county shall

1 impose the fee pursuant to Section 66016, except that if the fee
2 creates revenue in excess of actual costs, those revenues shall be
3 refunded to the payers of the fee.

4 ~~SEC. 4.~~

5 *SEC. 7.* Section 66016 of the Government Code is amended
6 to read:

7 66016. (a) Prior to levying a new fee or service charge, or
8 prior to approving an increase in an existing fee or service
9 charge, a local agency shall hold at least one open and public
10 meeting, at which oral or written presentations can be made, as
11 part of a regularly scheduled meeting. Notice of the time and
12 place of the meeting, including a general explanation of the
13 matter to be considered, and a statement that the data required by
14 this section is available, shall be mailed at least 14 days prior to
15 the meeting to any interested party who files a written request
16 with the local agency for mailed notice of the meeting on new or
17 increased fees or service charges. Any written request for mailed
18 notices shall be valid for one year from the date on which it is
19 filed unless a renewal request is filed. Renewal requests for
20 mailed notices shall be filed on or before April 1 of each year.
21 The legislative body may establish a reasonable annual charge
22 for sending notices based on the estimated cost of providing the
23 service. At least 10 days prior to the meeting, the local agency
24 shall make available to the public data indicating the amount of
25 cost, or estimated cost, required to provide the service for which
26 the fee or service charge is levied and the revenue sources
27 anticipated to provide the service, including General Fund
28 revenues. Unless there has been voter approval, as prescribed by
29 Section 66013 or 66014, no local agency shall levy a new fee or
30 service charge or increase an existing fee or service charge to an
31 amount which exceeds the estimated amount required to provide
32 the service for which the fee or service charge is levied. If,
33 however, the fees or service charges create revenues in excess of
34 actual cost, those revenues shall be used to reduce the fee or
35 service charge creating the excess.

36 (b) Any action by a local agency to levy a new fee or service
37 charge or to approve an increase in an existing fee or service
38 charge shall be taken only by ordinance or resolution. The
39 legislative body of a local agency shall not delegate the authority

1 to adopt a new fee or service charge, or to increase a fee or
2 service charge.

3 (c) Any costs incurred by a local agency in conducting the
4 meeting or meetings required pursuant to subdivision (a) may be
5 recovered from fees charged for the services which were the
6 subject of the meeting.

7 (d) This section shall apply only to fees and charges as
8 described in Sections 51287, 56383, 57004, 65104, 65456,
9 65584.1, 65863.7, 65909.5, 66013, 66014, and 66451.2 of this
10 code, Sections 17951, 19132.3, and 19852 of the Health and
11 Safety Code, Section 41901 of the Public Resources Code, and
12 Section 21671.5 of the Public Utilities Code.

13 (e) Any judicial action or proceeding to attack, review, set
14 aside, void, or annul the ordinance, resolution, or motion levying
15 a fee or service charge subject to this section shall be brought
16 pursuant to Section 66022.

17 ~~SEC. 5.~~

18 *SEC. 8.* Section 65586 of the Government Code is repealed.

19 ~~SEC. 6.~~

20 *SEC. 9.* Section 65588.1 of the Government Code is repealed.

21 ~~SEC. 7.~~

22 *SEC. 10.* Section 18070.3 of the Health and Safety Code is
23 amended to read:

24 18070.3. (a) When any person (1) who has purchased a
25 manufactured home for a personal or family residential or
26 investment purpose or (2) who has sold a manufactured home for
27 a personal or family residential or investment purpose, obtains a
28 final judgment against any manufactured home manufacturer,
29 manufactured home dealer or salesperson, or other seller or
30 purchaser, and the judgment is based on the grounds of (1)
31 failure to honor warranties or guarantees, (2) fraud or willful
32 misrepresentation related to any financial provision, (3) fraud or
33 willful misrepresentation of the kind or quality of the product
34 sold or purchased, (4) conversion, (5) any willful violation of any
35 other provision of this part, including the provisions regulating
36 escrow accounts, or regulations adopted pursuant to this part, or
37 (6) violation of Chapter 3 (commencing with Section 1797) of
38 Title 1.7 of Part 4 of Division 3 of the Civil Code, resulting in an
39 actual and direct loss directly arising out of any transaction that
40 occurs on or after January 1, 1985, the person, upon termination

1 of all proceedings, including appeals, may file a claim with the
2 department for an order directing payment out of the fund for the
3 amount of actual and direct loss in the transaction.

4 (b) If any person either purchases a manufactured home used
5 for a personal or family residential or investment purpose from,
6 or sells a manufactured home used for a personal or family
7 residential or investment purpose to, a person or entity who is or
8 has been the subject of a bankruptcy proceeding, the person may
9 file a claim with the department for an order directing payment
10 out of the fund for the actual and direct loss in the transaction
11 based on (1) the failure to honor warranties or guarantees, (2)
12 fraud or willful misrepresentation related to any financial
13 provision, (3) fraud or willful misrepresentation of the kind or
14 quality of product purchased or sold, (4) conversion, (5) willful
15 violation of any other provision in this part, including the
16 provisions regulating escrow accounts, or (6) violation of
17 Chapter 3 (commencing with Section 1797) of Title 1.7 of Part 4
18 of Division 3 of the Civil Code, resulting in an actual and direct
19 loss directly arising out of any transaction that occurs on or after
20 January 1, 1985.

21 (c) (1) The total amount of the claim shall not exceed the
22 amount of actual and direct loss that remains unreimbursed from
23 any source.

24 (2) The maximum payment ordered under this section, with
25 respect to any one sales transaction on a new or used
26 manufactured home, shall be the amount of the actual and direct
27 loss, as determined by the department based on information in
28 the possession of the department and information provided by the
29 claimant or claimants. In no event shall the actual payment
30 relating to a single transaction exceed seventy-five thousand
31 dollars (\$75,000).

32 (3) Notwithstanding any other provision of this chapter, a
33 person who purchases or sells a manufactured home for an
34 investment purpose may receive payment from the fund for that
35 purpose only once. A person who has received payment from the
36 fund for the purchase or sale of a manufactured home for an
37 investment purpose shall henceforth be ineligible to make a claim
38 under this chapter, either as a natural person or as a member of a
39 partnership, as an officer or director of a corporation, as a
40 member of a marital community, or in any other capacity.

1 (d) Prior to payment of any claim against the fund, the
2 claimant or claimants shall have first:

3 (1) If the claim is based on a final judgment, diligently
4 pursued collection efforts against all the assets of the judgment
5 debtor, or presented evidence satisfactory to the department that
6 the debtor is judgment proof, or demonstrated evidence
7 satisfactory to the department that the costs of collection are
8 likely to be in excess of the amounts that could be collected. This
9 evidence may include, but is not limited to, a description of the
10 searches and inquiries conducted by or on behalf of the claimant
11 with respect to the judgment debtor's assets liable to be sold or
12 applied to the satisfaction of the judgment, an itemized valuation
13 of the assets discovered, and the results of actions by the
14 claimant to have assets applied to satisfy the judgment.

15 (2) If the claim is not based on a final judgment, presented
16 evidence satisfactory to the department of either of the following:

17 (A) That the licensee is or has been the subject of bankruptcy
18 proceedings and, for purposes of any civil litigation or claims in
19 bankruptcy proceedings, has assigned to the department any
20 interest in the actual and direct loss described in subdivision (c)
21 in the amount that the claimant or claimants recover from the
22 fund.

23 (B) That the claimant's claim is consistent with this chapter
24 and the claimant had presented evidence satisfactory to the
25 department that the debtor is judgment proof, or demonstrated
26 evidence satisfactory to the department that the costs of
27 collection are likely to be in excess of the amounts that could be
28 collected. This evidence may include, but not be limited to, a
29 description of searches and inquiries conducted by or on behalf
30 of the claimant with respect to the judgment debtor's assets
31 eligible to be sold or applied to the satisfaction of the judgment,
32 an itemized valuation of the assets discovered, and the results of
33 actions by the claimant to have the assets applied to satisfaction
34 of the judgment.

35 (3) If the claim is based upon a violation of a provision within
36 a warranty provided pursuant to Chapter 3 (commencing with
37 Section 1797) of Title 1.7 of Part 4 of Division 3 of the Civil
38 Code, demonstrated evidence satisfactory to the department that
39 the claimant has been denied full compensation or correction

1 under the warranty after the claimant has attempted to exercise
2 his or her rights pursuant to the warranty.

3 (e) A claim against the fund shall be filed with the department
4 within the following time periods:

5 (1) If the claim is based on a final judgment, within two years
6 from the date of the judgment.

7 (2) If the claim is not based on a final judgment, within two
8 years from the termination of bankruptcy proceedings or two
9 years from the date of sale as determined by subdivision (a) of
10 Section 18070.2, or within two years of discovery of the
11 violations causing actual and direct losses pursuant to this article
12 but no longer than five years after the date of sale as determined
13 by subdivision (a) of Section 18070.2, whichever event occurs
14 later.

15 (f) When any person files a claim for an order directing
16 payment from the fund, the claimant shall mail, by first-class
17 mail, a copy of that claim to the last known address of the
18 judgment debtor. The department shall conduct a review of the
19 application and other pertinent information in its possession, and
20 it may issue an order directing payment out of the fund as
21 provided in subdivisions (a) to (e), inclusive, subject to the
22 limitations of subdivisions (a) to (e), inclusive, if the claimant or
23 claimants show all of the following:

24 (1) That he or she is not a spouse of the judgment debtor, the
25 bankrupt licensee, or a person representing the spouse.

26 (2) That he or she is making an application within the time
27 specified in subdivision (e).

28 (3) That the claimant has satisfied the applicable requirements
29 of subdivision (d).

30 (4) That, if the claimant is a seller of a manufactured home
31 used by the seller for personal, family, or household purposes,
32 the claimant made a good faith effort to adequately secure the
33 debt resulting from the sale of the manufactured home and with
34 respect to which the claim is made. For purposes of this
35 paragraph, a good faith effort to secure the debt may be
36 demonstrated by, but shall not be limited to, providing the
37 department with a promissory note signed by the debtor and
38 which, pursuant to the terms thereof, is secured by collateral with
39 a reasonable value at least equal to the debt evidenced by the
40 promissory note.

1 (g) Upon an order of the department directing that payment be
2 made out of the fund, the Controller is authorized to draw a
3 warrant for the payment of the amount of the claim approved by
4 the department pursuant to this section.

5 (h) In dispersing moneys from the fund, the department is
6 authorized to give priority to claimants who have attempted to
7 purchase or sell a manufactured home for a personal or family
8 residential purpose.

9 (i) All claims to the fund that are received on or after January
10 1, 1993, shall be processed, and a determination made, within
11 one year of submission of a properly completed application.

12 (j) The department, upon request by a Member of the
13 Legislature, shall provide the following information: the number
14 of claims to the fund, number of claims processed and decided
15 within one year of their application date and submission of a
16 properly completed application, the amount of fund money paid
17 to claimants, and the amount of fund money allocated for the
18 department's costs.

19 ~~SEC. 8.~~

20 *SEC. 11.* Section 18070.6 of the Health and Safety Code is
21 amended to read:

22 18070.6. (a) To the extent that department personnel and
23 resources are available, in any administrative action brought by
24 the department pursuant to Article 3 (commencing with Section
25 18058) of Chapter 7, the department shall make reasonable
26 efforts to plead and prove facts and allegations and request
27 findings and conclusions necessary to support an order of
28 restitution that may be deemed a final judgment.

29 (b) A person for whose benefit an order of restitution or other
30 financial award has been granted by the director pursuant to this
31 section may waive his or her rights to any additional
32 compensation from the fund arising out of a transaction and
33 submit a claim based on that administrative order to the fund
34 after demonstrating efforts to collect pursuant to subdivision (d)
35 of Section 18070.3.

36 (c) An order for restitution by the director pursuant to this
37 section shall not exceed the amount of restitution ordered or
38 approved by an administrative law judge in an administrative
39 action brought by the department.

1 ~~SEC. 9.~~

2 *SEC. 12.* Section 18400.3 of the Health and Safety Code is
3 amended to read:

4 18400.3. (a) The department shall convene a task force of
5 representatives of mobilehome owners, mobilehome park
6 operators, local enforcement agencies that conduct mobilehome
7 park inspections, and the Legislature, at least once a year, to
8 provide input to the department on the conduct and operation of
9 the mobilehome park maintenance inspection program.

10 (b) The Senate Committee on Rules and the Assembly
11 Committee on Rules shall each designate a member of its
12 respective house to be a member of the task force. Each
13 legislative member of the task force may designate an alternate to
14 represent him or her at task force meetings.

15 (c) With the input of the task force, the department may
16 reorganize violations under this part and the regulations adopted
17 pursuant to this part into the following two categories:

18 (1) Those constituting imminent hazards representing an
19 immediate risk to life, health, and safety and requiring immediate
20 correction.

21 (2) Those constituting unreasonable risk to life, health, or
22 safety and requiring correction within 60 days.

23 (d) Any matter that would have constituted a violation prior to
24 January 1, 2000, that is not categorized in accordance with
25 subdivision (c) on or after January 1, 2000, shall be of a minor or
26 technical nature and shall not be subject to citation or notation on
27 the record of an inspection conducted on or after January 1, 2000.

28 ~~SEC. 10.~~

29 *SEC. 13.* Section 18867 of the Health and Safety Code is
30 amended to read:

31 18867. (a) (1) If, upon inspection, the enforcement agency
32 determines that a special occupancy park is in violation of any
33 provision of this part, or any rule or regulation adopted pursuant
34 thereto, the enforcement agency shall promptly, but not later than
35 10 days, excluding Saturday, Sunday, and holidays, after the
36 enforcement agency completes the inspection and determines that
37 the alleged violation exists, issue a notice to correct the violation
38 to the owner or operator of the special occupancy park and to the
39 responsible person, as defined in Section 18871.8.

1 (2) If a violation constitutes an imminent threat to health and
2 safety, the notice of violation shall be issued immediately and
3 served on the owner or operator of the special occupancy park
4 and to the responsible person, as defined in Section 18871.8.

5 (3) The owner or operator of the park shall be responsible for
6 the correction of any violations for which a notice of violation
7 has been given pursuant to this subdivision.

8 (b) (1) If, upon inspection, the enforcement agency
9 determines that a recreational vehicle, an accessory building or
10 structure, or lot is in violation of any provision of Chapter 7
11 (commencing with Section 18870), Chapter 8 (commencing with
12 Section 18871), Chapter 9 (commencing with Section 18872), or
13 any regulation adopted pursuant thereto, the enforcement agency
14 shall promptly, but not later than 10 days, excluding Saturday,
15 Sunday, and holidays, after the enforcement agency completes
16 the inspection and determines that the alleged violation exists,
17 issue a notice to correct the violation to the registered owner of
18 the recreational vehicle, with a copy to the occupant thereof, if
19 different from the registered owner.

20 (2) If a violation is discovered that constitutes an imminent
21 hazard representing an immediate risk to life, health, and safety
22 and requiring immediate correction, the notice of violation shall
23 be issued immediately and served upon the occupant, with a copy
24 mailed to the registered owner of the recreational vehicle, if
25 different from the occupant, to the owner or operator of the
26 special occupancy park, and to the responsible person, as defined
27 in Section 18871.8.

28 (3) The registered owner or the occupant of the recreational
29 vehicle shall be responsible for the correction of any violations
30 for which a notice of violation has been given pursuant to this
31 subdivision.

32 (4) The enforcement agency may issue a notice of violation in
33 accordance with this chapter to the owner and occupant of a
34 recreational vehicle, mobilehome, manufactured home, park
35 trailer, or of factory-built housing which occupies a lot within a
36 special occupancy park.

37 (c) (1) Service of the notice of violation shall be effected
38 either personally or by first-class mail. Each notice of violation
39 shall be in writing and shall describe with particularity the nature
40 of the violation in as clear language as the technicality of the

1 violation will allow the average layperson to understand what is
2 being cited, including a reference to the statutory provisions or
3 regulation alleged to have been violated, as well as any penalty
4 provided by law for failure to make timely correction.

5 (2) For violations other than imminent threats to health and
6 safety as provided in paragraph (2) of subdivision (a) and
7 paragraph (2) of subdivision (b), the notice of violation shall
8 allow 30 days from the postmarked date of the notice or date of
9 personal delivery for the elimination of the condition constituting
10 the alleged violation.

11 (3) If, after the reinspection of a violation described in
12 paragraph (2) of this subdivision, the enforcement agency
13 determines that there is a valid reason why a violation has not
14 been corrected, including, but not limited to, weather conditions,
15 illness, availability of repair persons, or availability of financial
16 resources, the enforcement agency may extend the time for
17 correction, at its discretion, for a reasonable period of time after
18 the 30-day period.

19 (4) Upon a reinspection after the 30-day period of a violation
20 described in paragraph (2) of this subdivision, if a second notice
21 to correct a violation that is the responsibility of the registered
22 owner of the manufactured home or mobilehome or owner of the
23 recreational vehicle pursuant to paragraph (1) of subdivision (b)
24 is issued to the registered owner of a manufactured home or
25 mobilehome or recreational vehicle, with a copy to the occupant
26 thereof, if different from the registered owner, a copy of the
27 notice shall also be provided to the owner or operator of the
28 special occupancy park, and to the responsible person as defined
29 in Section ~~18871.3~~ 18871.8.

30 (5) If a second notice to correct a park violation pursuant to
31 paragraph (1) of subdivision (a) is issued to the owner or operator
32 of the park and to the responsible person, as defined in Section
33 ~~18871.3~~ 18871.8, the enforcement agency shall post a copy of the
34 violation in a conspicuous place in the park common area, and
35 the posted notice shall only be removed by the enforcement
36 agency when the violation is corrected.

37 (6) All violations described in paragraph (2) of subdivision (a)
38 and paragraph (2) of subdivision (b) shall be corrected within a
39 reasonable time as determined by the enforcement agency.

1 Notices of those violations shall state the time determined by the
2 enforcement agency within which corrections must be made.

3 (d) Notwithstanding any other provision of law, the
4 enforcement agency may, at its sole discretion, determine not to
5 issue a notice of violation pursuant to this chapter if the condition
6 which violates this part or the regulations adopted pursuant
7 thereto does not constitute an imminent hazard representing an
8 immediate risk to life, health, and safety and requiring immediate
9 correction. If the enforcement agency determines, pursuant to
10 this subdivision, not to issue a notice of violation, the
11 enforcement agency shall include in its inspection report a
12 description of the condition that violates this part and its
13 determination not to issue a notice of violation.

14 ~~SEC. 11.~~

15 *SEC. 14.* Section 33334.20 of the Health and Safety Code is
16 repealed.

17 ~~SEC. 12.~~

18 *SEC. 15.* Section 3692.4 of the Revenue and Taxation Code is
19 amended to read:

20 3692.4. (a) Notwithstanding any other provision of law, any
21 county, city, city and county, or any nonprofit organization as
22 defined in Section 3772.5, may request the tax collector to bring
23 to the next scheduled public auction any residential real property
24 that meets all of the following requirements:

25 (1) The property taxes have been delinquent for at least three
26 years.

27 (2) The real property will serve the public benefit of providing
28 housing directly related to low-income persons.

29 (3) The real property is not occupied by the owner as his or
30 her principal place of residence.

31 (b) Every request submitted to the tax collector shall include
32 the following:

33 (1) A formal resolution of the governing board of the county,
34 city, city and county, or nonprofit organization, requesting the
35 accelerated auction of the real property and stating the public
36 benefit.

37 (2) A written plan for the development, rehabilitation, or
38 proposed use of the real property and how low-income persons
39 will be served.

(3) If the request is from a nonprofit organization, the request shall have a formal resolution of approval from the city council of the city in which the real property is located, or from the board of supervisors of the county if the real property is located in an unincorporated area.

(c) Upon receiving a request as provided by this section, the tax collector shall include the real property in the next scheduled public auction.

(d) (1) If the real property is acquired by a nonprofit organization at auction, a deed restriction shall be placed on the real property, requiring the real property to be used for low-income housing for a period of at least 30 years.

(2) (A) In lieu of the 30-year restriction required by paragraph (1), the deed may provide for equity sharing upon resale, if the real property is a single-family home that will be sold by the nonprofit organization to a low-income owner-occupant.

(B) To the extent not in conflict with another public funding source or law, all of the following shall apply to an equity-sharing agreement provided for by the deed:

(i) Upon resale by an owner-occupant of the home, the owner-occupant of the home shall retain the market value of any improvements, the downpayment, and his or her proportionate share of appreciation. The nonprofit organization shall recapture any initial subsidy and its proportionate share of appreciation, which shall then be used for the purpose of providing financial assistance to low-income homebuyers.

(ii) For purposes of this subdivision, the initial subsidy shall be equal to the fair market value of the home at the time of initial sale to the nonprofit organization minus the initial sale price to the low-income owner-occupant, plus the amount of any downpayment assistance or mortgage assistance. If upon resale by the owner-occupant the market value is lower than the initial market value, then the value at the time of the resale shall be used as the initial market value.

(iii) For purposes of this subdivision, the nonprofit organization's proportionate share of appreciation shall be equal to the ratio of the initial subsidy to the fair market value of the home at the time of initial sale.

(e) This section may not be construed to preclude the application, to the real property or the current owners of that

1 property, of any other provision of law not in conflict with this
2 section.

3 ~~SEC. 13.~~

4 *SEC. 16.* The repeal of Section 33334.20 of the Health and
5 Safety Code by this act does not release any agency that reduced
6 the set-aside to its Low and Moderate Income Housing Fund
7 pursuant to the provisions of that section from the requirement to
8 eliminate the deficit in accordance with that section as it existed
9 on December 31, 2005.

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